

RECEIPT NUMBER

504025

5 pgs.

UNITED STATES OF AMERICA

IN THE DISTRICT COURT FOR THE EASTERN DISTRICT OF MICHIGAN

SOUTHERN DIVISION

Warren Keith Hudson

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

04-70838

PATRICK J. DUGGAN

Magistrate Judge Steven D. Pene

COMPLAINT

NOW COMES Plaintiff, Warren Keith Hudson, by and through his attorney, Joseph Falcone, and for her complaint against the United States of America, states as follows:

1. Plaintiff, Warren Keith Hudson, is an individual residing in the State of Michigan, with his residence located at 29115 Sheeks Blvd., Flat Rock, Michigan 48134.
2. The Defendant is the United States of America.
2. The Internal Revenue Service is an agency of the United States of America.
3. This Honorable Court has jurisdiction over this matter pursuant to 5 USC

552, and over the Internal Revenue Service as an agency of the United States of America, and pursuant to 28 USC §1331 and 1346, as the issues presented in this case arise under Federal Law and the Internal Revenue Code

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FILED

MAR - 5 2004

CLERK'S OFFICE-DETROIT-PSG
U.S. DISTRICT COURT

4. On December 27, 1999, the Internal Revenue Service assessed additional taxes in the amount of \$8,417.00 against the Plaintiff for the 1997 tax year. The Internal Revenue Service also assessed interest in the amount of \$1,443.98 against the Plaintiff for the 1997 tax year.

5. The Internal Revenue Service has attempted to collect the taxes assessed on December 27, 1999.

6. In order to determine why the Internal Revenue Service issued the assessment on December 27, 1999, Plaintiff filed a request under the Freedom of Information Act seeking documents that show what the assessment was for and if the assessment was properly made. The request was made on July 30, 2002, A copy of the request is attached hereto as Exhibit A.

7. On August 30, 2002, the Internal Revenue Service requested more time to respond to Plaintiff's request. A copy of a letter from the Internal Revenue Service dated August 30, 2002, is attached hereto as Exhibit B.

8. On October 24, 2002, the Internal Revenue Service did release some documentation pursuant to the Plaintiff's request, but did not release information regarding the Plaintiff's 1997 tax year, claiming that it could not find the records. Enclosed as Exhibit C is a copy of the October 24, 2002, letter from the Internal Revenue Service stating that it was still searching for the Plaintiff's 1997 tax records.

9. This Court should order the Internal Revenue Service to release documentation regarding the assessment made against Plaintiff for the 1997 tax year.

10. This Court should issue an injunction against the Internal Revenue Service enjoining it from continuing to collect the taxes unless and until it can show that it followed the proper procedures to assess additional taxes against the Plaintiff.

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WHEREFORE, Plaintiff respectfully prays that this Honorable Court order, pursuant to the Freedom of Information Act, 5 USC 552, that the Internal Revenue Service release the records not previously disclosed to the Plaintiff pursuant to his July 30, 2002, request and issue an injunction against the Internal Revenue Service from collecting taxes for 1997 from the Plaintiff, and order any monies previously seized by the Internal Revenue Service to be returned to the Plaintiff, and award Plaintiff his costs, interests and attorneys fees as allowed by law.

Dated:

3/1/04

JOSEPH FALCONE, P.C.

By: 

Joseph Falcone (P25727)
Attorney for Plaintiff
3000 Town Center, Suite 2370
Southfield, Michigan 48075
(248) 357-6610

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JS 44 11/99

CIVIL COVER SHEET COUNTY IN WHICH THIS ACTION AROSE: Wayne

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for use of the Clerk of Court for the purpose of initiating the civil docket sheet.

I. (a) PLAINTIFFS

Warren Keith Hudson

DEFENDANTS

United States of America

04-70838
70838

(b) County of Residence of First Listed

Wayne

County of Residence of First Listed

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)

Joseph Falcone (P25727)
3000 Town Center, Suite 2370, Southfield, MI 48075
248 357 6610

Attorneys (If Known) **PATRICK J. DUGGAN****Magistrate Judge Steven D. Pepe****II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
☒ 2 U.S. Government Defendant
☐ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties in Item 111)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- (For Diversity Cases Only)
- | | | | |
|---|---|---|---|
| Citizen of This State | PLA <input type="checkbox"/> 1 DEF <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | PLA <input type="checkbox"/> 4 DEF <input type="checkbox"/> 4 |
| Citizen of Another | PLA <input type="checkbox"/> 2 DEF <input type="checkbox"/> 2 | Incorporated and Principal of Business In Another State | PLA <input type="checkbox"/> 5 DEF <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | PLA <input type="checkbox"/> 3 DEF <input type="checkbox"/> 3 | Foreign Nation | PLA <input type="checkbox"/> 6 DEF <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment and Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault Libel And Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury-Med. Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21: 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced & Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input checked="" type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

V. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- ☒ Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify)
☐ 6 Multi district Litigation
☐ 7 Appeal to District Judge from Magistrate

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

5 USC 552 Freedom of Information Act lawsuit.

VII. REQUESTED IN COMPLAINT:
☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

\$ DEMAND

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No**VIII. RELATED CASE(S) Instructions:** IF ANY

JUDGE

DOCKET NUMBER

DATE

3/2/04

SIGNATURE OF ATTORNEY OF RECORD

PURSUANT TO LOCAL RULE 83.11

1. Is this a case that has been previously dismissed?

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

☐ Yes
☒ No

2. Other than stated above, are there any pending or previously discontinued or dismissed companion cases in this or any other court, including state court? (Companion cases are matters in which it appears substantially similar evidence will be offered or the same or related parties are present and the cases arise out of the same transaction or occurrence.)

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

☐ Yes
☒ No

Notes :
